



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/667,454

09/23/2003

Koji Nagata

10517/188

9466

7590

09/07/2005

Mark H. Neblett, Esq.
KENYON & KENYON
1500 K Street, N.W.
Washington, DC 20005-1257

EXAMINER

ARTHUR JEANGLAUDE, GERTRUDE

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

HC

Office Action Summary	Application No. 10/667,454	Applicant(s) NAGATA ET AL.	
	Examiner Gertrude Arthur-Jeanglaude	Art Unit 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10-15, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 6-9 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/23/03</u> . | 6) <input type="checkbox"/> Other: _____ |

EA

DETAILED ACTION

Claims 1-18 are presented for examination

Oath/Declaration

It does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month and year of its filing.

The Oath/Declaration omitted the foreign application priority number. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 10-15, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawa et al. (U.S. Patent No. 6,024,671).

As to claims 1, 10, Sawa et al. disclose an apparatus and method for determining a failure in an automatic transmission in a vehicle while running, comprising: a first detecting portion which detects an operating state of the automatic transmission; (See col. 1, lines 6-13) an estimating portion (acting as a control see col. 3, line 37- col. 4, lines 1-33) which estimates the operating state when the automatic transmission is in a neutral state in which transmission of power is interrupted, based on torque input from a power source of the vehicle to the automatic transmission; Sawa et al. does not

Art Unit: 3661

specifically disclose a first and second failure. However it discloses failures considered as first and second. It discloses failure determining portion which determines, while distinguishing between, a first failure related to the neutral state of the automatic transmission and a second failure that is different from the first failure, based on the detected operating state and the estimated operating state (See col. 21, lines 9-32) (see step S135 for failures see col. 39, lines 35-58).

As to claims 2 11,15, 17,, Sawa et al. disclose the second failure is a failure related to slipping of a frictional engaging element with which a gear speed of the automatic transmission is established (See col. 46, lines 41-59).

As to claims 3, 12, Sawa et al. disclose the failure determining portion determines, while distinguishing between, the first failure related to the neutral state and the second failure related to slipping of a frictional engaging element while the vehicle is running in a predetermined gear speed (See col. 45, lines 13-22).

As to claims 4, 13, 18 Sawa et al. disclose a second detecting portion which detects a speed of a power source of the vehicle, wherein the failure determining portion determines, while distinguishing between, the first failure related to the neutral state and the second failure related to slipping of a frictional engaging element when the speed of the power source has fulfilled a preset condition (See col.45, lines 13-63).

Art Unit: 3661

As to claims 5, 14, Sawa et al. disclose the operating state is an input speed of the automatic transmission (See abstract).

Allowable Subject Matter

Claims 6-9, 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to disclose that the failure determining portion determines that the first failure related to the automatic transmission being in the neutral state has occurred when a difference between the detected input speed and the estimated input speed falls below a preset value, and determines that the second failure related to slipping of a frictional engaging element with which a gear speed of the automatic transmission is established has occurred when the difference between the detected input speed and the estimated input speed exceeds the preset value.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yokoyama et al. (U.S. Patent No. 5,629,852)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gertrude Arthur-Jeanglaude whose telephone number is

Art Unit: 3661

(571) 272-6954. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GAJ

GAS

September 2, 2005

Gertrude A. Jeanglaude
GERTRUDE A. JEANGLAUDE
PRIMARY EXAMINER